

STATE OF IOWA
PROPERTY ASSESSMENT APPEAL BOARD

Allan R. & Sandra Duitman,
Petitioners-Appellants,

v.

Mason City Board of Review,
Respondent-Appellee.

ORDER

Docket No. 11-106-0162
Parcel No. 07-10-107-014-00

On June 8, 2012, the above-captioned appeal came on for consideration before the Iowa Property Assessment Appeal Board. The appeal was conducted under Iowa Code section 441.37A(2)(a-b) and Iowa Administrative Code rules 701-71.21(1) et al. The appellants Allan R. and Sandra Duitman were self-represented and submitted evidence in support of their appeal. Attorney James J. Locher is counsel for the Mason City Board of Review. The Appeal Board now having examined the entire record, written testimony, and being fully advised, finds:

Findings of Fact

Allan R. and Sandra R. Duitman, owners of property located at 124 N Delaware, Mason City, Iowa, appeal from the Mason City Board of Review decision reassessing their property. The real estate was classified commercial for the January 1, 2011, assessment and valued at \$100,630; representing \$36,040 in land value and \$64,590 in improvement value.

Duitmans protested to the Board of Review on the grounds that the property was not equitably assessed as compared to other like properties under Iowa Code section 441.37(1)(a); that the property was assessed for more than authorized by law under section 441.37(1)(b); and that there was an error in the assessment under section 441.37(1)(d). The Board of Review denied the protest.

Duitmans then appealed to this Board on the same grounds. Duitmans value the subject property at \$84,690. We note their error claim is actually akin to a claim of over assessment. Their

written statement indicates their belief that land and building have not gone up. For this reason, this Board will only consider the Duitmans' equity and market value claims.

According to the property record card, the subject property is a two-story, brick on block, building with a 6600 square-foot base. The property was built in 1912 and had some minor remodeling in 1997. It is currently a vacant retail store. The property has apparently been marketed for sale beginning with a price of \$210,000, which was subsequently reduced to \$135,000. The record indicates the property finally sold, subsequent to the assessment date, in December 2011 for \$111,000.

Duitmans makes a general assertion that most people are aware that residential and commercial buildings in Mason City have been on the decline in value. They base this statement on conversations with their broker/agent and, apparently, from national media sources. Duitmans note they paid \$67,500 for the property in 2001, and they have not been operating as a business since 2008. They have made only minimal repairs to the property since 2002.

To support their claim that the property is inequitably assessed and/or over assessed, Duitmans point to two commercial sales in Mason City . Duitmans state the Elks Club located at 11 2nd Street NW sold in July 2010, for \$73,000 and is currently assessed at \$213,340. Duitman recognized that this property sold as the result of a sheriff sale, and for this reason, does not likely represent fair market value of the property. We agree. The sales price would have to be adjusted to reflect this distorting factor. They also rely on the property known as the old armory, a large conglomerate, located at 126 W State Street, which sold for \$150,000. It has a current assessment of \$279,390. These sales were also not adjusted to reflect differences (such as size, age, condition) between them and the subject property. Because this information is quite limited, we find it of little value for determining whether the subject property is inequitably assessed or over assessed.

Robert Zinnel, Mason City Assessor, submitted evidence on behalf of the Board of Review. Zinnel's letter indicates that all commercial properties in Mason City were revalued for 2011.

Regarding Duitmans' protest to the Board of Review, Zinnel comments it is his belief that Duitmans did not properly complete the Board of Review's form, and that because information was lacking regarding Duitmans' claims, the Board of Review affirmed the assessment. Zinnel states they did not list any comparable properties under the equity ground and failed to list their legal descriptions. We note that while the Duitmans did not list equity properties on the form itself, it appears they attempted to provide at least two properties they considered as comparables in an attached letter. Additionally, we note that although Duitman did not provide the legal description of the properties as required by the Administrative Code, it would appear to be hyper-technical not to consider properties provided they could easily be identified by their address.

Additionally, Zinnel adds some clarity to Duitmans' protest. The Duitmans' protest noted sales across the street from their property. The two sales sold for \$67,500 (or \$22.01 per square foot) and \$43,000 (or \$14.02 per square foot). Apparently, there was a third sale of a property across the street for \$92,000 (or \$27.83 per square foot). Comparatively, Duitmans' property is assessed at \$7.62 per square foot, which is well below the range of these unadjusted sales.

Zinnel also submitted a list of thirty-one commercial sales. It includes price-per square-foot information and shows a wide range of values. This sales information was not adjusted to reflect for differences between the sale properties and the subject property. Therefore, we find it of little relevance.

Reviewing all the evidence, we find the preponderance of evidence does not support Duitmans' contention the subject property is inequitably assessed or is assessed for more than authorized by law. Therefore, we affirm the assessment of the Board of Review.

Conclusions of Law

The Appeal Board based its decision on the following law.

The Appeal Board has jurisdiction of this matter under Iowa Code sections 421.1A and 441.37A (2011). This Board is an agency and the provisions of the Administrative Procedure Act apply to it. Iowa Code § 17A.2(1). This appeal is a contested case. § 441.37A(1)(b). The Appeal Board determines anew all questions arising before the Board of Review related to the liability of the property to assessment or the assessed amount. § 441.37A(3)(a). The Appeal Board considers only those grounds presented to or considered by the Board of Review. § 441.37A(1)(b). But new or additional evidence may be introduced. *Id.* The Appeal Board considers the record as a whole and all of the evidence regardless of who introduced it. § 441.37A(3)(a); *see also Hy-vee, Inc. v. Employment Appeal Bd.* 710 N.W.2d 1, 3 (Iowa 2005). There is no presumption that the assessed value is correct. § 441.37A(3)(a).

In Iowa, property is to be valued at its actual value. Iowa Code § 441.21(1)(a). Actual value is the property's fair and reasonable market value. *Id.* "Market value" essentially is defined as the value established in an arm's-length sale of the property. § 441.21(1)(b). Sales prices of the property or comparable property in normal transactions are to be considered in arriving at market value. *Id.* If sales are not available, "other factors" may be considered in arriving at market value. § 441.21(2). The assessed value of the property "shall be one hundred percent of its actual value." § 441.21(1)(a)

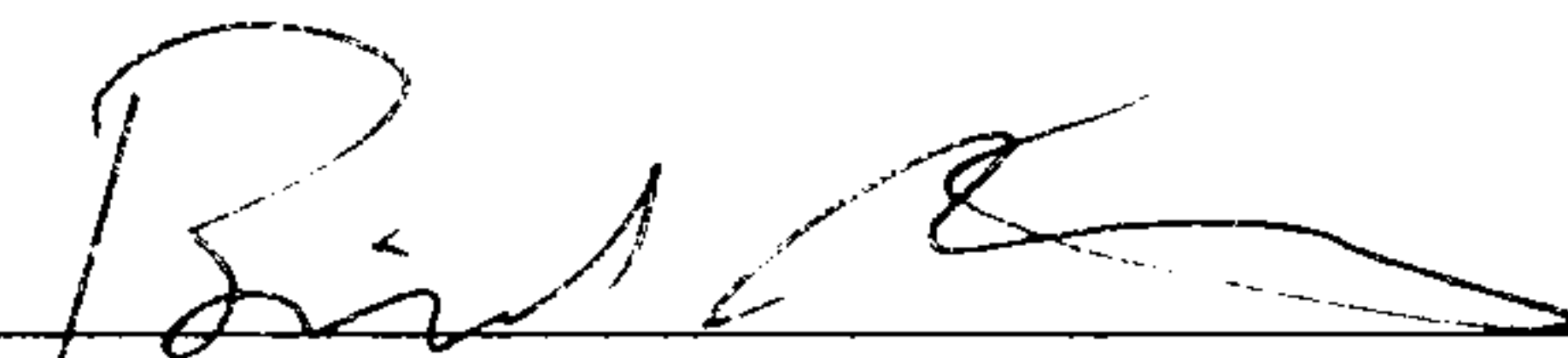
To prove inequity, a taxpayer may show that an assessor did not apply an assessing method uniformly to similarly situated or comparable properties. *Eagle Food Centers v. Bd. of Review of the City of Davenport*, 497 N.W.2d 860, 865 (Iowa 1993). Alternatively, a taxpayer may show the property is assessed higher proportionately than other like property using criteria set forth in *Maxwell v. Shriver*, 257 Iowa 575, 133 N.W.2d 709 (1965). The gist of this is the ratio difference between assessment and market value, even though Iowa law now requires assessments to be 100% of market value. § 441.21(1). Duitmans did not provide sufficient evidence to show the property was inequitably assessed under either test.

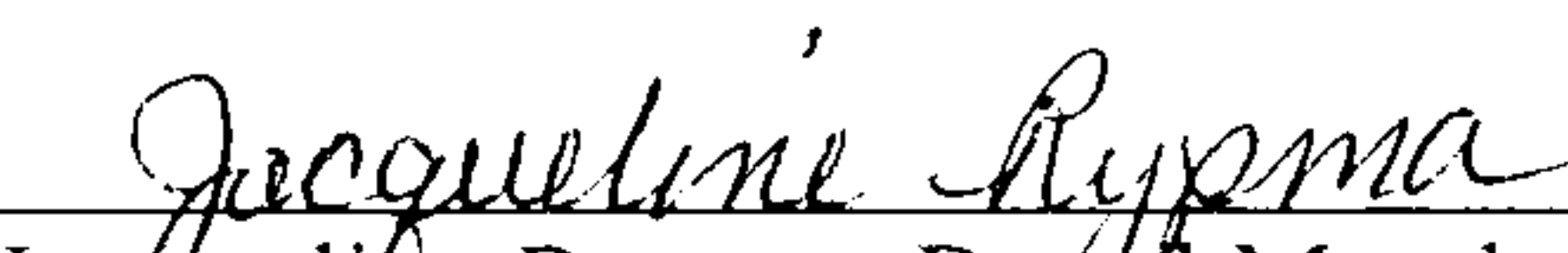
In an appeal that alleges the property is assessed for more than the value authorized by law under Iowa Code section 441.37(1)(b), there must be evidence that the assessment is excessive and the correct value of the property. *Boekeloo v. Bd. of Review of the City of Clinton*, 529 N.W.2d 275, 277 (Iowa 1995). The Duitmans did not submit sufficient evidence to support their claim that the property is assessed for more than authorized by law.

Viewing the evidence as a whole we determine that the preponderance of the evidence failed to support Duitmans' inequity and market value claims for January 1, 2011. We, therefore, affirm the Duitman property assessment as determined by the Board of Review.

THE APPEAL BOARD ORDERS the assessment of the Duitman property located at 124 N Delaware, Mason City, Iowa, as determined by the Mason City Board of Review is affirmed.

Dated this 3 day of August 2012.


Richard Stradley, Presiding Officer


Jacqueline Rypma, Board Member


Karen Oberman, Board Member

Copies to:

Allan R. and Sandra Duitman
124 N. Delaware
Mason City, IA 50401
APPELLANTS

James J. Locher
103 E State Street
Mason City, IA 50401
ATTORNEY FOR APPELLEE

Certificate of Service	
The undersigned certifies that the foregoing instrument was served upon all parties to the above cause & to each of the attorney(s) of record herein at their respective addresses disclosed on the pleadings on <u>8-3</u> , 2012.	
By:	<input checked="" type="checkbox"/> U.S. Mail <input type="checkbox"/> FAX
	<input type="checkbox"/> Hand Delivered <input type="checkbox"/> Overnight Courier
	<input type="checkbox"/> Certified Mail <input type="checkbox"/> Other
Signature	